IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.10.2006

Coram

The Honourable Mr.Justice ELIPE DHARMA RAO
and
The Honourable Mr.Justice A.KULASEKARAN

W.P. Nos.10189 of 2002 & 24147 and 36726 of 2006

& WPMP Nos.13762/2002 & 1893/2006 in W.P.No.10189 of 2002

The Secretary,
Tamil Nadu Public Service Commission
Government Estate, Chennai 2.

.. Petitioner in W.P.No.10189/2002/
2nd respondent in W.P.Nos.24147&
36726/2006

vs.

1. R.Jayakumar .. 1st respondent in
W.P.No.10189/2002/
petitioner in W.P.Nos.24147 &
36726/2006

The Secretary to Government,
Agricultural Department,
Fort St. George, Chennai -9. ..1st Respondent in WP 24147/06 &
36726/2006

2. The Chief Engineer
Agricultural Engineering department
328, Anna Salai, Nandanam, Chennai 35.
..2nd Respondent in WP.10189/02
..3rd Respondent in WP.No.24147 & 36726/06

3. The Registrar,
Tamil Nadu Administrative Tribunal
Chennai. .. 3rd Respondents in W.P.10189/02

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Prayer in W.P.No.10189/2002: Petition filed under Article 226 of the Constitution of India, praying for the issuance of a writ of certiorari to call for the records relating to the order of the 3rd respondent passed in O.A.No.6020/2000, dated 8.3.2001 and quash the same.

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Prayer in W.P.No.24147/2006: Petition filed under Article 226 of the Constitution of India, praying for the issuance of a writ of certiorarified mandamus to call for the records of the first respondent dated 14.9.2005 in Government Letter No.3768/AA3/05-5 as communicated to the petitioner by the memorandum of the 3rd respondent dated 21.10.2005 in proceeding number HRM 2(2) 9639/2004 and quash the same and consequently direct the 2nd respondent to consider the candidature of the petitioner for appointment as AEE (AE) by direct recruitment in pursuance of its notification dated 13.7.1998 by accepting the Equivalence Certificate dated 23.8.1998 issued by the Annamalai University in favour of the petitioner.

Prayer in W.P.No.36726/2006: Petition filed under Article 226 of the Constitution of India, praying for the issuance of a writ of mandamus to call for the records of the respondents relating to the appointments of A.E.E.(AE) in the Tamil Nadu Agricultural Engineering service since 1.2.1981 for perusal and direct the respondents to modify 35 vacancies for selection and appointment of A.E.E.(AE) pursuant to the 2nd respondent's notification dated 13.7.1998 and direct the 2nd respondent to select the petitioner herein and direct the respondents 1 and 3 herein to issue appointment and posting orders in the post of Assistant Executive Engineer (Agricultural Engineering) by direct recruitment to the petitioner by notional fixation from 02.9.1993, the date on which the petitioner became eligible and qualified with retrospective effect and monetary benefits from 9.4.2001, the date of order on which the direct recruits were given appointment in G.O.No.96, dated 9.4.2001.

Petitioner in W.P.Nos.24147 & 36726/2006: Mr.R.Jayakumar
Petitioner in person.

For petitioner in W.P.No.10189/2002 : Mr.R.Sureshkumar

For 2nd respondent in W.P.No.10189/2002 : Mr.G.Sankaran, AGP
and for R1 & 3 in WP 24147/2006 & 36726/06:

Mr.G.Annamalai for R1 in WP 10189/2002

Mr.R.Suresh Kumar for R2 in WP 24147/06 & 36726/06

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C O M M O N  O R D E R

(Order of the Court was made by ELIPE DHARMA RAO J.)

W.P.No.10189 of 2002 is filed by the Secretary, Tamil Nadu Public Service Commission, challenging the order of the Tribunal in O.A.No.6020 of 2000 dated 8.3.2001.

2. W.P.No.24147 of 2006 is filed by one Mr.R.Jayakumar, who is the applicant in O.A.No.6020 of 2000, challenging the order of the Government dated 14.9.2005.

3. W.P.No.36726 of 2006 is also filed by Mr.R.Jayakumar for a direction to issue appointment and posting orders in the post of Assistant Executive Engineer (Agricultural Engineering) by direct recruitment to the petitioner by notional fixation from 22.9.1993, the date on which the petitioner became eligible and qualified with retrospective effect and monetary benefits from 9.4.2001, the date of order on which the direct recruits were given appointment in G.O.No.96, dated 9.4.2001.

4. The above said O.A.No.6020 of 200 was filed by one Mr.R.Jayakumar, who is the petitioner in W.P.Nos.24147 and 36726 of 2006, with a prayer to direct the respondents to select and post him for the post of Assistant Executive Engineer (Agricultural Engineering), if he is qualified and eligible based on marks obtained in the written examination and oral test. According to him, he was appointed as Assistant Soil Conservation Officer on 29.9.1982 in Agricultural Engineering Department with the qualification of Diploma in Agricultural Engineering. He passed B.E.(Mechanical) in 1990 and M.E.(Thermal Power) in 1993. He was promoted as Assistant Engineer in the year 1993. He has passed all the Departmental examinations. When he made a request to promote him as Assistant Executive Engineer (Agricultural Engineering), he was advised to appear for the TNPSC examination. Accordingly, he applied for the direct recruitment on 24.8.1998. After the written examinations held on 26.9.1998 and 27.9.1998, he was not allowed to appear for the oral test, on the ground that the qualification possessed by him viz., M.E.(Thermal Power) was not equivalent to M.E.(Agricultural Engineering). He has produced a certificate from the Annamalai Unversity, certifying that the Master degree in Engineering (Thermal power) awarded to him is equivalent to Master degree in Agricultural Engineering. Even then, his case was rejected. Hence he has moved the Tribunal.

5. It was brought to the notice of the Tribunal that the qualification acquired by the petitioner, namely M.E. (Thermal Power) is not equivalent qualification, as resolved by the committee

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constituted through G.O.Ms.No.441, P & AR Department dated 20.12.1993. On 10.11.2000, the Equivalence Committee has resolved not to recommend the degree obtained by the petitioner as equivalent to the qualification prescribed for the post of Assistant Executive Engineer (AE) and forwarded their decisions to the Government. The orders of the Government were awaited. Therefore, pending approval of the Government, the Tribunal after noticing the decision of the Committee, ordered that his case should be treated as a special one and granted the relief, directing the Tamil Nadu Public Service Commission to publish his result and in case he is selected, the appointment order may be issued to him, against, which W.P.No.10189 of 2002 is filed by the Tamil Nadu Public Service Commission.

6. Now at the time of final disposal of the above writ petition, it is brought to the notice of this Court that by an order dated 14.9.2005, the decision of the Committee was approved by the Government, stating that M.E.(Thermal Power) with basic Diploma in Agricultural Engineering is not equivalent to M.E. (Agricultural Engineering).

7. Therefore, we are of the considered view that the relief granted by the Tribunal, subject to the pending approval of the decision of the Committee by the Government, is no more available. Accordingly, W.P.No.10189 of 2002 is allowed and the order of the Tribunal in O.A.No.6020 of 2000 dated 18.3.2001 is set aside.

8. The W.P.No.24147 of 2006 is filed by the applicant R.Jayakumar, assailing the correctness of the order passed by the Government dated 14.9.2005 on the ground that the Committee has no power to go into the equivalence of the qualification or degrees awarded by the University and it is for the University to consider whether the degree obtained by him is equivalent to the degree required for the post.

9. During the course of argument, it is brought to the notice of this Court that in G.O.Ms.No.441, P&AR department dated 20.12.1993, the Government of Tamil Nadu has constituted a committee to examine and to recommend the degrees acquired by the candidates as to whether they are equivalent to other disciplines. This committee functions from that date onwards. Moreover, the petitioner in W.P.Nos.24147 and 36726 of 2006 has failed to assail the correctness of G.O.Ms.No.441, constituting the Expert Committee. Further, it is brought to the notice of this Division Bench that the Registrar of the Annamalai University has issued the certificate of equivalency. The Vice Chancellor of the Annamalai University is one of the members of the Committee. Therefore, the Vice Chancellor cannot say in one hand sitting as a member of the Committee that M.E. in Thermal Power is not equivalent to M.E. in Agricultural Engineering, but on the other hand issue the certificate that

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M.E.Thermal Power is equivalent to M.E.Agricultural Engineering. Therefore, on that ground and also the petitioner has not chosen to assail the correctness of the constitution of the Committee, so long as the committee is continuing as per the order of the Government from 1993, the petitioner Mr.R.Jayakumar cannot ask the correctness of the order dated 14.9.2005. Moreover, this Court cannot have the power to review the decision of the Expert Committee. Therefore, on the above stated grounds, the W.P.Nos.24147 and 36726 of 2006 filed by Mr.R.Jayakumar fail and the same are dismissed.

10. In the result, W.P.No.10189 of 2002 is allowed and W.P.Nos.24147 and 36726 of 2006 are dismissed. No costs. The connected WPMPs. are closed.

Sd/
Asst.Registrar
7.11.2006

Corrected order to be issued.

Sd/-
Asst Registrar
15.11.2006

/true copy/

Sub Asst.Registrar

ajr

To

1. The Chief Engineer
Agricultural Engineering department
328, Anna Salai, Nandanam, Chennai 35.

2. The Registrar,
Tamil Nadu Administrative Tribunal
Chennai.

To be substituted to the order already despatched on 8.11.2006

+3ccs to Govt. Pleader, Sr 49110,49111,49112
+1cc to Mr.R.Suresh Kumar, Advocate Sr 48527
+1cc to Mr.Annamalai, Advocate Sr 48362
+1cc to Mr.R.Jayakumar, Petitioner in person in WP No.24147 & 36726/06 Sr No.48361

RNA (CO)
km/7.11.
SR/15.11.2006



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